

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

LAUREN S.,

Plaintiff,

v.

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

CASE NO. C22-5779-BAT

**ORDER REVERSING THE  
COMMISSIONER'S FINAL DECISION  
AND REMANDING**

Plaintiff appeals the ALJ's decision finding her not disabled. She contends the ALJ misevaluated examining doctor John Haroian's, Ph.D. opinion. The Court agrees and **REVERSES** the Commissioner's final decision and **REMANDS** the matter for further administrative proceedings.

After examining Plaintiff, Dr, Haroian prepared a written Psychological Evaluation in which he diagnosed Plaintiff with "Major Depressive Disorder Recurrent Severe" due to "Anhedonia anergia and amotivation IIAM-D score of 20, severe symptoms." Tr. 523. In the section of the Evaluation entitled "Medical Source Statement," Dr. Haroian opined Plaintiff has a number of non-severe functional work limitations; he also opined Plaintiff has moderate limitations in her ability to: understand, remember and persist in tasks following detailed instructions; perform work with in schedule, maintain regular attendance and be punctual; learn

1 new tasks; adapt to changes in a routine work setting; communicate in a work setting; maintain  
2 appropriate behavior in the work place; complete a normal workday; and set realistic goals and  
3 work independently. Tr. 524. Dr. Haroian rated the overall severity of Plaintiff's limitations  
4 based upon the combined impacts of all diagnosed mental impairments as "moderate." *Id.* The  
5 Medical Source Statement the doctor used defined a "moderate" severity rating as "a significant  
6 limitation on the ability to perform the activity." Tr. 523.

7 The ALJ found Dr. Haroian's opinions were partially persuasive but found Dr. Haroian's  
8 "opinion of 'moderate' limitations (on the form, 'moderate' is defined as a significant limitation  
9 on the ability to perform the activity) is less persuasive or useful because 'significant' limitation  
10 is not precisely defined." Tr. Tr. 24.

11 Plaintiff contends the ALJ erroneously failed to provide any explanation regarding the  
12 supportability and consistency of Dr. Haroian's opinion as required by 20 C.F.R 404.1520c(a)  
13 ("new regulations), and instead discounted the opinion for an invalid reason that has the Court  
14 has previously rejected, citing *Mendiata c. Colvin*, No. C15-1937-JCC, 2017 WL 942901, at \* 6  
15 (W.D. Wash. Mar. 9, 2017). Dkt.11 at 5. In *Mendiata* the ALJ rejected Dr. Widlan's assessment  
16 Plaintiff had "moderate" and "marked" limitations on the grounds these terms were "too vague  
17 and general to be helpful." *Id.* The District Court reversed finding these terms are commonly  
18 used to describe a claimant's limitations in the social security context and that to the extent the  
19 ALJ felt the terms were ambiguous, the ALJ had the duty to contact the doctor to clarify rather  
20 than reject the opinion outright as vague. *Id.* The Court agrees with the reasoning in *Mendiata*  
21 and similarly finds the ALJ erred.

22 The Commissioner defends the ALJ arguing the ALJ must consider the supportability of  
23 each opinion but contends "significant limitation" is undefined, and medical opinions using

1 vague or unexplained terms are not useful and thus not persuasive. Dkt. 13 at 2. The argument  
2 fails for several reasons. First it simply repeats the ALJ's finding. Second, the argument is  
3 inconsistent with *Mendiata* and other decisions which have held the term "moderate" and  
4 "significant" are terms commonly used in social security disability cases and the ALJ errs in  
5 rejecting the terms as vague. The Commissioner argues *Mendiata* is "irreconcilable" with the  
6 new regulations that alter the deference accorded examining doctors such as Dr. Haroian, and  
7 which also do away with the requirement the ALJ provide specific or legitimate reasons to  
8 discount an opinion. The Commissioner suggests the Court must affirm the decision because it is  
9 supported by substantial evidence. Dkt. 13 at 3.

10 The Court rejects these arguments. The new regulations do not overturn decisions  
11 holding the ALJ errs in rejecting "significant limitations" as vague. This is the error the ALJ  
12 committed. Further the *Mendiata* decision has nothing to do with what deference the ALJ was  
13 required to accord medical sources before the new regulations. The Commissioner defends the  
14 ALJ by relying upon the new regulations, but the ALJ rejected Dr. Haroian's opinion without  
15 showing the ALJ fulfilled the supportability and consistency findings which are required by the  
16 new regulations.

17 The Commissioner also attempts to side-step the new regulation's requirements by  
18 suggesting the Court should affirm because the ALJ's finding is supported by substantial  
19 evidence. That the ALJ's finding must be supported by substantial evidence goes without saying.  
20 But the new regulations do not state the ALJ may give no reason to reject a medical opinion.  
21 Rather the new regulations require the ALJ to articulate how a medical opinion was considered,  
22 specifically explaining the persuasiveness of the opinion based upon supportability and  
23 consistency. The Court thus declines to side-step the requirements imposed upon the ALJ by the

1 new regulations and finds the ALJ erred by failing to provide an adequate explanation as  
2 required by the new regulations.

3 Third, the Commissioner suggests the ALJ rejected Dr. Haroian's opinion as inconsistent  
4 with or contradicted by the opinions of other doctors contending "the ALJ was more persuaded  
5 by the prior administrative medical findings from Jon Anderson, Ph.D. and Renee Eisenhauer,  
6 Ph.D." Dkt. 13 at 3-4. The ALJ made no such finding and as the Court reviews the findings the  
7 ALJ made, the Court rejects the Commissioner's post hoc argument.

8 And lastly Dr. Haroian opined Plaintiff has "moderate," i.e., "significant limitations in  
9 her ability to perform work activity. To the extent the ALJ felt "significant limitation" is not  
10 precisely defined, and thus ambiguous, the ALJ was required to develop the record, and not  
11 simply reject the opinion. *See Mcleod v. Astrue*, 640 F.2d 881, 885 (9th Cir. 2011) citing  
12 *Tonapetyan v. Halter*, 242 F.3d 1144, 1150 (9th Cir. 2001).

13 For the foregoing reasons, the Court **REVERSES** the Commissioner's final decision and  
14 **REMANDS** the case for further administrative proceedings under sentence four of 42 U.S.C. §  
15 405(g). On remand, the ALJ shall reassess Dr. Haroian's opinions, develop the record and  
16 redetermine residual functional capacity as needed, and proceed to the remaining steps of the  
17 disability evaluation process as appropriate.

18 DATED this 5<sup>th</sup> day of April, 2023.

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22 BRIAN A. TSUCHIDA  
23 United States Magistrate Judge